

REMARKS

In the Office Action, claims 1-22 have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5, 6, 7 and 10 of U.S. Patent No. 6,715,712.

Also in the Office Action, claims 1-3, 9, 10 and 15-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Struble 3,412,963 and claims 1-3, 9, 10, and 15-18 have been rejected as being anticipated by FR 2612485 A1. In addition, claims 4, 5, 11-14, 18 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Struble 3,412,963, and claims 4, 5 and 19 have been rejected as being unpatentable over FR 2612485 A1.

In this Response to Office Action, Applicant is filing herewith a terminal disclaimer in compliance with 37 CFR 1.321(c) to overcome the double patenting rejection. Additionally, all independent claims (i.e. claims 1, 9 and 15) have been amended to now recite a member having an operative surface (claims 1 and 9) or a friction sheet (claim 15) that are positioned at the open end of the container. These independent claims further recite a means for maintaining the operative surface (claims 1 and 9) or friction sheet (claim 15) stationary relative to a container to generate frictional forces for controlling the exit rate of aerostat cloth from the container. It is further recited that the exit rate control functions to maintain the inflated aerostat cloth taut.

Support for these amendments is found in the specification beginning on page 9 at line 18 and continuing to page 10 at line 2, in the specification on page 11 at lines 1-17 and in Figs. 4 and 6. Further, claims 2 and 10-12 have been amended to accommodate amendments to independent claims 1 and 9.

Amendments to the claims have been presented herein to improve the readability of the claims and to point out the features which distinguish the present invention over the cited art. Also, these amendments have been made to more clearly define the structure and cooperation of structure for the present invention. Claims 1-22 remain pending.

#### Double Patenting

All of the claims of the present application have been rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 5, 6, 7 and 10 of U.S. Patent No. 6,715,712. In response, Applicant is filing herewith a terminal disclaimer in compliance with 37 CFR 1.321(c). Accordingly, Attorney for Applicant respectfully contends that the basis for the claim rejections based on double patenting has thus been overcome, and should be withdrawn.

#### Rejections under 35 U.S.C. § 102(b)

In the Office Action, claims 1-3, 9, 10 and 15-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Struble 3,412,963 and claims 1-3, 9, 10, and 15-18 have been rejected as being anticipated by FR 2612485 A1.

In this Response to Office Action, all independent claims (i.e. claims 1, 9 and 15) have been amended and now recite a member having an operative surface (claims 1 and 9) or a friction sheet (claim 15) that are positioned at the open end of the container. These independent claims further recite a means for maintaining the operative surface (claims 1 and 9) or friction sheet (claim 15) stationary relative to a container to generate frictional forces for controlling the exit rate of aerostat cloth from the container.

No such structure or cooperation of structure is taught or suggested by the cited references (i.e. Struble 3,412,963 and FR 2612485 A1), taken alone or in combination. Specifically, neither reference discloses a member for generating frictional forces to control the exit rate of cloth from a container that is held stationary relative to the container.

Instead, and quite unlike the present invention, the Struble reference discloses a circular band which maintains an inflatable device in a deflated, rolled up configuration. Upon release of the band, the device inflates. Importantly, there is no teaching or suggestion that a member or friction sheet can be held stationary relative to a container to control an exit rate of cloth from the container.

The teaching that is lacking in Struble is not provided by the FR 2612485 A1 reference. In particular, the FR 2612485 A1 reference provides no motivation to hold a member stationary relative to a container to control the exit rate of cloth from the container. To the contrary, the FR 2612485 A1 reference discloses an inflatable device that is wound on a roll-up wheel. During inflation of the device, the wheel is free to rotate to release the device. In short, none of the components of the FR 2612485 A1

reference are held stationary relative to the container to control the exit rate of cloth from the container.

Accordingly, Attorney for Applicant respectfully contends that independent claims 1, 9 and 15 are now allowable. In addition, since rejected claims 2-3, 10, and 16-18 respectively depend either directly or indirectly from independent claim 1, 9 or 15, these claims are also allowable.

For the reasons set forth above, Applicant believes that the basis for rejecting claims 1, 2, 12, 15, 17 and 18 under 35 U.S.C. § 102(b) has been overcome and the rejections should be withdrawn.

#### Rejections under 35 U.S.C. § 103(a)

In the Office Action, claims 4, 5, 11-14, 18 and 19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Struble 3,412,963, and claims 4, 5 and 19 have been rejected as being unpatentable over FR 2612485 A1.

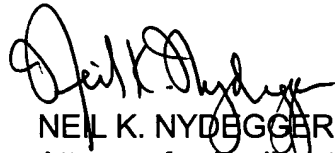
Applying the arguments provided above regarding independent claims 1, 9 and 15, Attorney for Applicant contends that these claims are non-obvious over Struble 3,412,963 and FR 2612485 A1 for these same reasons. Accordingly, Attorney for Applicant believes the basis for rejecting claims under 35 U.S.C. § 103(a) has been overcome and the rejections should be withdrawn.

The references cited by the Examiner, but not relied on for the rejection of claims, have been noted.

In conclusion, Applicant respectfully asserts that claims 1-22 are patentable for the reasons set forth above, and that the application is now in a condition for allowance. Accordingly, an early notice of allowance is respectfully requested. The Examiner is requested to call the undersigned at 619-688-1300 for any reason that would advance the instant application to issue.

Dated this 28<sup>th</sup> day of July, 2004.

Respectfully submitted,



NEIL K. NYDEGGER  
Attorney for Applicant  
Registration No. 30,202

NYDEGGER & ASSOCIATES  
348 Olive Street  
San Diego, California 92103  
Telephone: (619) 688-1300